IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 31167 of 2007(I)

PETITIONER:

GATI LIMITED,
"KAVERI BUILDING", 19/304 B, PUTHIYAPALAM,
CALICUT-673 002, BY MRINAL KANTI MUKERJI,
GDW MANAGER.

BY ADV. SRI.P.RAGHUNATH
SRI.PREMJIT NAGENDRAN

RESPONDENTS:
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1. INTELLIGENCE INSPECTOR,
SALES TAX CHECK POST, AZHIYUR CHUNGAM.

2. INTELLIGENCE INSPECTOR,
SQUAD NO.III, KOZHIKODE.

3. INTELLIGENCE OFFICER,
SQUAD NO.III, KOZHIKODE.

BY GOVERNMENT PLEADER SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 31167 OF 2007 I
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Dated this the 19th day of October, 2007

J U D G M E N T

Exhibits P1 and P2 notices issued under KVAT Act are under challenge in this writ petition. In Ext.P1, it is mentioned that the goods shown in the transit pass were not available in the vehicle on inspection, and hence, the vehicle was detained. In Ext.P2, it is stated that the goods mentioned therein were detained at the godown of the petitioner on the allegation that document under Section 46(3) of the KVAT Act were not available. It is on this basis, the goods were detained.

2. The petitioner submits that the goods were brought from Mysore to Kochi. Petitioner submits that it being a common carrier, goods were consigned by Ms.Larson and Tubro Ltd, Mysore and that the goods were intended to be delivered at Mahe. However, the same was omitted to be loaded into the truck when it left Calicut, although transit passes were entrusted to the truck driver. It is on that basis, the petitioner submits that

there is absolutely no justification for the detention of the goods from the truck.

3. It is also pointed out that after the detention of the truck, when the office of the petitioner was inspected, the goods covered by the transit passes mentioned in Ext.P1 were available and it was hence that these very goods were detained as per Ext.P2.

4. On the other hand, the learned Government Pleader submits that in terms of the provisions of the Act, the goods ought to have been available in the truck and that when the goods were detained at the office of the petitioner, the corresponding documents were also not available.

5. Be that as it may, it is a matter which requires to be adjudicated, and that has to be done by the statutory authorities, and as at present, the question is whether the goods are to be released or not.

6. Though I see no reason to continue the detention, taking into account the fact that the petitioner is not a registered dealer in Kerala, I am not prepared to direct an unconditional release of the truck as is sought for by the petitioner. On the petitioner furnishing a bank guarantee of the amounts mentioned

in Exhibits P1 , the vehicle and the goods in question shall be released to the petitioner. Thereafter, further adjudication will be done. In so far as the goods detained as per Ext.P2 is concerned, in view of the contention raised in respect of it, I direct that the same be released on a simple bond without sureties.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp